

REQUEST FOR PROPOSALS

Issued By
COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
FRANKFORT OFFICE BUILDING



**CONVEYANCE OF COMMONWEALTH LAND
TO PRIVATE ENTITY TO FINANCE, DESIGN, DEVELOP, CONSTRUCT, MAINTAIN,
OPERATE, AND LEASE TO THE COMMONWEALTH AN OFFICE BUILDING AND
RELATED INFRASTRUCTURE,
AT SOWER BOULEVARD, FRANKFORT, KENTUCKY
THIS WILL BE A 35 YEAR LEASE, WITH THE PROPEORTY REVERTING TO THE
COMMONWEALTH AT THE END OF THE LEASE**

Project Name: **FRANKFORT OFFICE BUILDING**
An Office Building, in accordance with general
specifications contained herein

Proposal Number: RFP#120214

Closing Date & Time: Tuesday December 30, 2014 1:00 p.m.

IMPORTANT

Submit Proposals To: Department for Facilities and Support Services
Second Floor – Bush Building
403 Wapping Street
Frankfort, Kentucky 40601
Attn.: Paul Gannoe

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I. Intent

The Commonwealth of Kentucky, Finance and Administration Cabinet, desires to pursue a contract with a private developer to finance, design, develop, construct, lease, and thereafter maintain and operate an office building in Frankfort, Kentucky (The Project) of the size and character indicated in this RFP including all supporting infrastructure ("the Project").

This solicitation is issued pursuant to KRS 56.8161 et. seq.

Based on detailed requirements, terms and conditions set forth in this Request for Proposals ("RFP"), the Commonwealth solicits proposals from prospective developers who can demonstrate the necessary capability to finance, design, develop, construct, thereafter lease to the Commonwealth and maintain the Project, and in accordance with KRS 56.8161 (2), which definition is as follows:

"Design-build-finance-operate" means a built-to-suit project delivery method in which the chief purchasing officer enters into a single procurement and contract award for design, construction, financing, and operation of a capital project over a contractually defined period; and in which the ownership and title of the capital project shall be conveyed at any time to the Commonwealth of Kentucky.

The Project will be constructed on state owned property at Sower Boulevard, Frankfort, KY, adjacent to the Public Services Commission Building. The Commonwealth will offer this specific parcel of property, containing approximately 33.988 acres, as indicated on the attached plat, at Sower Boulevard, Frankfort, Kentucky, as the Project construction site (see attached Exhibit C).

The Commonwealth will convey to the Successful Offeror the necessary property (described herein) at no cost, for construction of the Project. The successful Offeror shall take title to the real property, complete construction of the Project, and lease same to the Commonwealth. At the end of the 35 year lease term or as indicated in the Lease, ownership of the Project will revert to the Commonwealth.

Since the Commonwealth must relocate from an existing privately leased property in the very near future, the Commonwealth must secure housing for the displaced state tenants. In addition to the replacement of housing for the tenants, the Commonwealth is currently evaluating all of its assets and its budgetary situation to determine whether the Commonwealth may reduce its overall dependency on privately leased space.

This request for proposals will include an evaluation based on a minimum set of building standards (Exhibit I) and the Annual Lease Payments payable by the Commonwealth for The Project and the Office building, for a lease term of 35 years. At the end of the 35 year lease term, or earlier as provided for in the lease, the Commonwealth will own the property and the Office Building.

As indicated in Exhibit I, the minimum acceptable building size is 364,700 gross square feet.(360,000 GSF will be office space and 4,700 GSF will be white space for food service). The building shall house at a minimum 1,400 employees. All proposals must include infrastructure conforming to the requirements of this RFP to accommodate employees at a minimum rate of 257 GSF per employee.

The entire facility must be leased to the Commonwealth. The Commonwealth reserves the right to sublease to third parties at its sole discretion. The property and improvements will be owned by the Commonwealth at the end of the lease term, or earlier as provided by the lease.

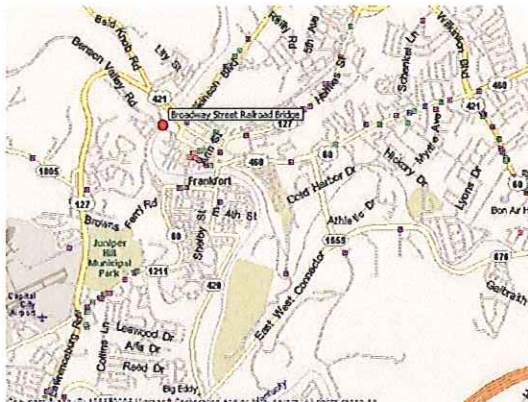
The annual rent payable to the Offeror by the Commonwealth shall include maintenance, but exclude utilities and janitorial services. The annual rent will not be subject to indexation or escalation for the life of the term of the lease.

The lessor will be responsible for all operations, daily and preventative maintenance of all building systems, insurance of the building and site, snow removal, lawn care, etc. for the full term of the lease.

The lessee will be responsible for all utilities, janitorial service, pest control, moveable equipment, furnishing and non-building systems equipment, insurance of the contents of the building for the full term of the lease

In this transaction, the Commonwealth will be the beneficial owner of the property and no property tax will be due on the real estate and improvements. However, the Offeror will be responsible for all other state taxes, including but not limited to income and, if applicable, sales and use tax as well as any appropriate local taxes, such as occupational and school taxes.

II. Background of State-Owned Property Being Offered for this Project



Excerpt from "Frankfort Master Plan" completed by Barrett Partners, Inc., September 27, 2001:

The Central Lab Complex is located on the East West Connector at Sower Boulevard. The site consists of approximately 70 acres. The Central Laboratory Facility, the Central Lab Utility Plant, and the recently constructed Public Service Commission building occupy the site. The Central Lab was constructed in 1994 and contains approximately 300,000 square feet on two floors. The modern building is a landmark at the entrance of the property. The 7,500 square foot Utility Plant is located behind the Central Lab building along the west property line. The Public Service Commission building is located in the center of the property on the east side of Sower Boulevard. The building consists of four floors terraced into the natural topography of the site and contains 51,000 square feet of floor area. Adjacent to the Central Lab building on the southeast corner of Sower Boulevard and the East West Connector is the Commonwealth Credit Union building. Access to the Credit Union is from Flynn Avenue, a short stub street that also provides access to the adjoining Carpenter Farm. To the west of the Central Lab Complex is the Ratliff property and proposed Glenss Creek Office Park. The proposal for the office park indicates access connections to the East West Connector and the Central Lab Complex property south of the utility plant. Access at one point in time was also proposed to Glenss Creek Road by way of extending the existing cul-de-sac at the Kentucky Employees Credit Union building. The AT&T radio tower adjoins the southwest corner of the Central Lab Complex. Across the East West Connector from Sower Boulevard is a commercial entrance for Wilson's Landscape Nursery.

The Central Lab Complex has a Special Government Zone in accordance with the Frankfort Planning and Zoning Office. This zone identifies the property as government owned and out of the jurisdictional purview of the local governing body. The portion of the property required for the built-to-suit project will be conveyed to the successful Offeror, and the zoning designation will revert to Professional Office. The Offeror will be required to submit a development plan to planning and zoning for approval.

III. General RFP Information

A. Pre-Proposal Conference

A pre-proposal meeting at the project site may, at the discretion of the Commonwealth, be scheduled by this office at 9:00 a.m. on December 4, 2014. It is anticipated that representatives from the Finance and Administration Cabinet and the Department for Facilities and Support Services will be in attendance to

answer questions from prospective Offerors.

Although a question and answer session will occur, the final, official answer or position of the Commonwealth on any material points will be stated in writing and distributed to all Offerors by addendum subsequent to the meeting. Offerors are encouraged to submit written questions prior to the meeting. All inquiries should be directed to Paul Gannoe, Department for Facilities and Support Services, Second Floor Bush Building, 403 Wapping Street, Frankfort, Kentucky, 40601 or to Paul.Gannoe@ky.gov prior to December 4, 2014.

B. RFP Addenda

This RFP may be supplemented or amended at any time by appropriate addenda which will be mailed to all known RFP holders and will be posted to the eProcurement website. Addenda may also be necessary after the receipt date and will be sent to all Offerors who have submitted a proposal. It shall be the Offerors' responsibility to verify all addenda prior to submittal of response by viewing at <http://eProcurement.ky.gov>

C. Offeror Responsibility for Proposal Submittal

All proposals submitted shall be deemed to have been made with the full knowledge of all of the terms, conditions, provisions, specifications and requirements contained in this RFP and any addenda and enclosures thereto.

Each Offeror has the responsibility of delivering his/her proposal by the time and at the place prescribed in this RFP. Proposals received prior to the closing for receipt of proposals will remain unopened until the time scheduled for opening proposals. Any proposal received after the date and time specified in this RFP shall be rejected and returned unopened to the Offeror. The Commonwealth shall not have any liability to an Offeror due to the failure of such proposal to be properly addressed or marked, or the premature opening of such a proposal due to the improper address. Neither the proposals nor their contents will be made available for public information or inspection until a determination of a successful Offeror has been made and award is final.

D. Built-to-Suit Process

This procurement shall be administered according to KRS 56.8161 (2) et. seq.

The evaluation process will be conducted by a built-to-suit selection committee, as outlined in KRS 56.8163. The Commonwealth shall provide adequate public notice of a request for proposals and notice of the materials to be provided to a firm to assist that firm in responding to the RFP. Those materials shall include, but not be limited to, the RFP and the proposal evaluation sheet to be used by the selection committee. The notice shall establish a time/date for written response to that notice. In order to respond to that notice, a firm or its representative shall respond on or before the time and date designated in the notice. At least one member of a consortium must have submitted the Notice. The response shall be in a form determined by the Commonwealth and shall provide the firm's name and address. All written responses submitted on or before time/date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file. ***PLEASE NOTE: A FIRM WHICH FAILS TO MEET THE DEADLINE SHALL BE BARRED FROM THE PROCUREMENT PROCESS.***

All firms responding in time shall be transmitted a request for proposals. Each firm shall be invited to submit a written proposal on a form created by the COK (Phase I Form attached hereto as Exhibit A).

NOTE: A FIRM WHICH FAILS TO MEET THE DEADLINE FOR THE NOTICE, DOES NOT SUBMIT A RESPONSE ON A "COMMONWEALTH OF KENTUCKY SOLICITATION" FORM OR DOES NOT INCLUDE IN ITS PROPOSAL ALL REQUIRED DOCUMENTATION/ITEMS SHALL BE BARRED FROM THE RFP PROCUREMENT PROCESS.

All COK employees and members of selection committee shall keep written proposals **confidential** until the lease is awarded. The Commonwealth shall designate a department employee to determine which firms have filed, in a timely fashion, both a response to the public notice and a written proposal on a COK-created form. The designated employee shall create a list of the firms which have done so and certify that list.

The selection committee shall be provided with all appropriate submittals pertaining to this solicitation. The selection committee shall meet in executive session to: a) evaluate the materials provided, and b) to select, but not rank, the three (3) most qualified firms, based upon the "pass / fail" evaluation factors set forth in the RFP. The Department shall notify each firm responding to the RFP of the three finalists and the rest of the procedure that will be followed in the award of the built-to-suit lease.

The selection committee shall individually interview the three finalists, preferably on the same day. Each interview shall be attended only by representatives of the finalist and members of the selection committee. Members shall keep as **confidential** the substance of each interview. The selection committee shall meet in executive session to rank the "value-added offers" of three finalists based on weighted evaluation factors in the RFP and forward the ranking to the Commissioner of the Department for Facilities and Support Services ("Commissioner").

The Commissioner shall make the final official award to the top ranked finalist.

The Commissioner shall award the built-to-suit contract. After the firm has been selected, the Department shall notify the finalists, informing them which firm has been selected and the rest of the procedure that will be followed in awarding the contract.

Upon award of the contract resulting from this solicitation, the Commonwealth shall convey to the individual or firm to whom such lease has been awarded, in fee simple with covenant of general warranty of title, the real estate upon which the building is to be constructed under the contract. The Commonwealth will convey the land at no cost to the offeror. The deed of conveyance shall contain a reversionary clause in favor of the Commonwealth, should the successful Offeror be unable to complete the structure according to the contract. See attached Exhibit D, draft deed of conveyance between Commonwealth of Kentucky, Grantor, and successful Offeror, Grantee.

The Commonwealth shall also grant a temporary construction easement for the construction of the Project, (See Exhibit E for draft), and a permanent ingress/egress easement to the project site (See attached Exhibit E for draft ingress/egress easement). Should offeror require permanent ingress/egress easement, offeror shall be responsible for providing survey/metes and bounds for easement.

The lease agreement between the Commonwealth, as Lessee, and the Offeror, as Lessor, shall provide for an initial lease term commencing the date the building(s) are accepted for occupancy by the Commonwealth, but not later than thirty (30) days after the issuance of a Certificate of Occupancy and ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with an option in the Commonwealth, as Lessee, to extend the term of the lease for a term of two years from the expiration of the original term of the lease and for two years from the expiration of each extended term of the lease, or purchase of the building(s) by the Commonwealth, until the original term of the lease has been extended for the total term. (The COK cannot commit its budget beyond a biennium. Please refer to KRS 56.806). The Commonwealth cannot structure a long term lease, per KRS 56.806. The rent, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building(s) and appurtenances. The rent shall be paid in arrears, and in quarterly installments.

The lease shall provide that the lessee (Commonwealth) may, at the expiration of the original and any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the building(s) and appurtenances not amortized by the payments of rent previously made by the lessee (Commonwealth).

The lease shall provide that in the event of the exercise of the option to purchase the leased premises or

in the event the lease has been extended, and all rents and payments provided for in the lease have been made, the lessor (Offeror) shall convey the improved premises to the lessee (Commonwealth) in fee simple with covenant of general warranty of title

Vendors are cautioned that the Restriction on Communications applies to selection committee members, as well as to any other Commonwealth employee except as listed in Section "E." below.

The penalties for violations of the provisions of KRS 56.800 to KRS 56.826 are outlined in KRS 56.990.

E. Restriction on Communication

The Commonwealth Buyer named below shall be the **sole point of contact** throughout the procurement process. All communications, oral and written (regular, express, or electronic mail or fax), concerning this procurement shall be addressed to:

Paul Gannoe
403 Wapping Street – Second Floor, Bush Building
Frankfort, KY 40601
502-782-5697
Fax – 502-564-3649
E-mail – Paul.Gannoe@ky.gov

From the issue date of this RFP until an Offeror is selected, and the resulting lease is executed, Offerors shall not communicate with any Commonwealth staff concerning this RFP except:

- The Commonwealth Buyer (Paul Gannoe) cited in this RFP
- Commonwealth representatives during a scheduled Offerors' Conference, which shall be attended by Commonwealth buyer; or
- Via written questions submitted to the Commonwealth Buyer (Paul Gannoe)

For violation of this provision, the Commonwealth reserves the right to reject their proposal response.

All inquiries must be submitted no later than December 8, 2014 to allow sufficient time for written responses to be routed.

Any agreement or collusion among lease proposers or prospective lease proposers which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to propose a lease with certain terms or to refrain from proposing a lease with certain terms or otherwise is prohibited.

F. No Prior Commitment or Obligation

The issuance of this RFP in no way constitutes an expressed or implied commitment by the Commonwealth to award a contract or to pay for the costs incurred in the preparation of a response to this RFP.

The Commonwealth unconditionally reserves the right to withdraw or cancel this RFP and to reject any and all offers at any time and for any reason without recourse. Receipt of proposal materials by the Commonwealth or submission of a proposal to the Commonwealth confers no rights upon the Offeror nor obligates the Commonwealth in any manner.

No contract or lease resulting from this RFP can be deemed valid or binding until properly approved and executed by the Secretary of the Finance and Administration Cabinet.

The Commonwealth may waive minor irregularities or technicalities; however, such waiver shall in no way

operate to modify the RFP requirements or provisions if the Offeror is awarded the contract.

G. Issuing Office

This RFP is being issued by the Department for Facilities and Support Services, Finance and Administration Cabinet, on behalf of the Commonwealth of Kentucky.

The only authority empowered to obligate the Commonwealth is the Secretary, Finance and Administration Cabinet.

H. Proposal Guaranty

1. Offerors' proposals must be accompanied by a certified or cashier's check, made payable to the "Kentucky State Treasurer", in the amount of Five Thousand Dollars (\$5,000.00). Upon award of a contract, the certified or cashier's check of the unsuccessful Offerors will be returned immediately. The certified or cashier's check of the successful Offeror will be returned upon receipt of the performance and payment bonds enumerated herein.
2. In the event an Offeror's proposal is accepted and the Offeror fails to execute the contract documents, including the deed and the lease, within ten (10) calendar days after its receipt by the successful Offeror, the Commonwealth may, at its option, determine that the Offeror has abandoned the project and the amount of the proposal guaranty shall be forfeited to the Commonwealth as liquidated damages, and not as a penalty.

IV. PROJECT DEVELOPMENT - Finance, develop, construct, lease to the Commonwealth, and thereafter maintain and operate an office building and Related Infrastructure

A. Commonwealth Design Goals

It is the desire of the Commonwealth to select an Offeror to develop and construct an office building of the size and character indicated in this RFP (see Exhibit I for Minimum Building Standards), on a designated parcel of state-owned land, identified on plat attached hereto and made a part hereof as Exhibit C, located at Sower Boulevard, Frankfort, Kentucky.

After construction of the building and infrastructure, the conveyed facility would then be leased to the Commonwealth for a period of time not to exceed thirty-five (35) years. The rent, if paid for the original term and all extensions thereof will amortize the total cost of the erection of the building(s) and appurtenances.

The lease shall provide that the Commonwealth may, at its sole options and discretion, at the expiration of the original or any extended term or following termination of the lease pursuant to KRS 56.806(6), purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the building(s) and appurtenances not amortized by the payments of rent previously made by the Commonwealth.

The lease shall provide that in the event Commonwealth exercises its option to purchase the leased premises, or once all rent and payments provided for in the lease have been made, the lessor shall convey the land and improvements to the Commonwealth in fee simple with covenant of general warranty of title.

The Project shall consist of the following features:

The dimension of the Commonwealth's land designated for this project has been surveyed, by and at the expense of the Commonwealth. The survey is in AutoCAD format with "z" values for contour lines. Benchmarks as are available are indicated. Existing utilities are indicated on the plan. The survey and legal descriptions shall be utilized in the conveyance to the successful Offeror and leased-back to Commonwealth after construction of the building (KRS 56.820), along

with a temporary construction easement, and a permanent ingress/egress easement. Should Offeror require permanent ingress/egress easement, Offeror shall be responsible for providing survey/metes and bounds for easement. The survey and legal descriptions shall be utilized as a legal description for the lease agreement between the Commonwealth, as Lessee, and the successful Offeror, as Lessor.

The structure will be a stand-alone building(s) and shall comply with all requirements of the Kentucky Building code, Kentucky Electrical Code, Kentucky Mechanical Code, Kentucky Plumbing Code, and all other applicable state and national codes. In addition, the site shall be developed in compliance with the Frankfort/Franklin County Planning and Zoning Commission. See attached Minimum Building Standards, Exhibit I, for more information.

The building and site shall meet or exceed the Minimum Building Standards attached to this RFP as Exhibit I. Any proposal that does not indicate compliance with these Minimum Standards shall be not be considered for further review.

The structure will be a "turn-key" building upon completion and must receive a certificate of occupancy from the state Department of Housing, Buildings, and Construction prior to occupancy.

The facility and parking lot shall be ADA compliant in all respects as for new construction. The parking lot is to be constructed in accordance with the requirements of the Frankfort/Franklin County Planning and Zoning Ordinance and shall take into consideration the design criteria indicated in the geotechnical report. The construction of either concrete parking pavement, or bituminous parking pavement is at the option of the Offeror.

The cost of the Snack/Vending/Food Service Area white space should be included in the lease to the COK. The COK may sublease this area to the Kentucky Department for the Blind or a vendor for operation of a concession area. When the fit up of the white space is known, the COK will negotiate a lease increase, in accordance with KRS 56.813, for the cost of the ROUGH-INS ONLY to accommodate this fit up. The cost of the fit up itself will be borne by the COK, Department for the Blind or the vendor selected

B. Site, Architectural Design Goals, and Performance Specifications for Office Building

General Project Information:

The offered property is owned by the Commonwealth of Kentucky. The Commonwealth is making available a site consisting of approximately 33.988 acres for use by the Offeror at no cost to the offeror, for construction of the building. At the end of construction, those portions of the site not utilized for the building, parking, storm water retainage, cut/fill operations, utilities, or other site improvements may, at the option of the Commonwealth, be transferred back at no cost to the Commonwealth by the Offeror.

The building to be constructed, by and at the sole expense of the successful Offeror, shall be a free-standing office building meeting or exceeding the size and character indicated in Exhibit I "Minimum Building Standards and that is designed such that subdividing and/or adding space can be easily accomplished in the future.

All mechanical, plumbing, electrical and physical security measures will be incorporated into the design. Note: Infrastructure must accommodate employees at a rate of 257 GSF/per person.

- Design/Construction Considerations:
 - a. Exhibit I defines the Minimum Building Standards that shall be incorporated (or exceeded) in their entirety in the design and construction of this Office Building. No deviation of these requirements will be granted, without the expressed written consent of the Department of Facilities and Support Services.

- b. All permanent communications, building emergency systems monitoring and security are to be installed by and at the expense of the Offeror.
 - c. For the purpose of Offeror's proposal, Offeror is to provide a drawing showing the suites, offices, conference rooms and all cubical spaces to indicate that their footprint is efficient enough to allow for the number of spaces indicated in the proposal. All five cabinet secretary office suites and the allowances for conference rooms and private offices are to be provided as indicated. If the space planning process requires adjustment to these quantities, an adjustment will be made to the lease agreement and lease cost. Infrastructure must support a rate of 257 GSF/per person. (See Exhibit I)
- Site Considerations:
- a. A site of undeveloped land, as indicated in the attached survey plat, owned by the Commonwealth, will be used for construction of the proposed facility. The Offeror shall be responsible for incorporation of access drives to the internal road network.
 - b. The available site is a 'clean' site, with no environmental hazards or issues known to exist. Note: A Phase I Environmental Site Assessment (ESA) was performed in the early 2000's for the subject Commonwealth-owned site by the City of Frankfort with no issues detected. The City completed a Phase I when originally purchasing the entire farm, upon which the project site is located. There were no known environmental issues. There is a Native American burial ground, located near the power tower, to the front of the Commonwealth Credit Union property, closer to the East-West Connector (KY 676). The commonwealth does not have a copy of the City's Phase I. If Offeror or Offeror's lender chooses to perform an ESA, Commonwealth environmental staff will assist in expediting the process by providing historic information and analytical data to the ESA preparer. If a full ESA is not required but specific questions arise, the Commonwealth's environmental officer can provide answers through an amendment to this RFP. The Commonwealth will not pay for the Phase II environmental site assessments. The successful Offeror shall be responsible for all costs associated with the remediation of any environmental anomalies.
 - c. Construction will be performed by and at the sole expense of the successful Offeror. This work includes:
 - 1. Notice of Intent (NOI) for storm water management/erosion control/best management practices. NOTE on Erosion Control Measures: the successful Offeror will be responsible for providing and maintain erosion control measures resulting from building project construction activities. All existing erosion control measures found on the site before building construction begins will be maintained and if disturbed will be repaired or modified as needed.
 - 2. Grading – excavation for cuts, placement of fill and compaction to bring site up to the required finished elevation.
 - 3. General site drainage swales, ditches, culverts and a detention basis will be constructed to manage water runoff from the site.
 - 4. General topographic information showing building finished floor elevations.
 - 5. Successful Offeror will apply seed and straw on all disturbed areas of the site to prevent erosion.
 - 6. Construction entrance – planned to also be the permanent site access drive.
 - 7. Special notes to the Offeror:
 - a. The Offeror, with prior approval, may dispose of all excess excavated materials (for footings, ditches, etc.) on Sower Boulevard property within the boundaries of the proposal site, as identified by the Commonwealth, in a manner that provides proper drainage and control of erosion or may dispose of the excess materials off-site at Offeror's expense.
 - b. There are known sinkholes located on the property offered by the Commonwealth. The location of those sinkholes are identified in the attached Exhibit C
Remediation of the sink holes and any other that may be discovered or encountered shall be at the Offeror's sole expense.
 - d. Preliminary geotechnical exploration (performed by S&ME Engineers, Inc. NOTE: the Commonwealth of Kentucky has procured the services of a Geotechnical Engineering firm

which has provided a preliminary subsurface investigation report. The Offeror will be responsible for the procurement of any additional subsurface investigation that it deems necessary for the construction of the building. The site is being offered in this proposal as unclassified and the Commonwealth is not responsible for any unknown geotechnical subsurface conditions that may be encountered during construction.

1. The preliminary geotechnical exploration report, should be reviewed in its entirety to obtain complete information required for design of foundation support for the building and infrastructure. Any additional engineering consulting services deemed necessary by the Offeror to construct the building foundations shall be included in the Offeror's proposal and by and at the expense of the Offeror.

e. All staging areas required for construction shall be on the project site; alternate arrangements may be made by prior written request by Offeror and approval by Commonwealth.

f. The construction site shall be policed daily and ALL debris shall be removed and containerized. All building materials, tools, portable equipment and other related items shall be secured daily to prevent any opportunity for those objects becoming airborne. Open dumpsters shall not be allowed.

g. Keep roadways leading to and from the site free and clear of mud and debris.

h. The Offeror shall work with the Department for Facilities and Support Services, the Kentucky Transportation Cabinet, and the City of Frankfort Engineer to obtain and designate adequate access to accommodate construction traffic to and from the Sower Boulevard building project site. The cost of such access, if any, shall be borne by the Offeror.

i. The successful Offeror will provide fence, if required.

j. A preliminary traffic study and determination has been made by the Kentucky Department of Transportation that has indicated that preliminarily the proposed building will not require any significant improvements to the traffic infrastructure of nearby roadways. However, the Offeror shall be responsible for any additional traffic study necessary due to the actual size of the proposed building and to obtain a permit from the Kentucky Transportation Cabinet for the increased traffic flow. The preliminary traffic study and determination is attached as Exhibit H. The Kentucky Transportation Cabinet is aware of this construction project and has set aside a \$50,000 allowance for this work. This allowance is for minor improvements (signalization, etc.) to the intersection of Sower Boulevard and the main highway, KY 676 (East-West Connector). The Offeror will need to include this allowance in the cost of work, since the successful Offeror may be responsible for reimbursing the Kentucky Transportation Cabinet for this work. The traffic study identified two alternatives for access to the site 1) Glenss Creek Road Connector and 2) East-West Connector Access. These two accesses are not requirements of the Project. For site design, the Commonwealth would allow Sower Boulevard to end at the property line. The scenarios contained in the traffic study do not pertain to this RFP project, other than from a traffic perspective. Again, the COK expects Sower Boulevard to extend to the west boundary line of the project site. This may be beneficial to the Offeror, as the Offeror could convey/declare as right of way to the City and the City would be responsible for snow removal/maintenance of this extension." Offerors should plan for the eventual extension of Sower Boulevard to the property line to the west for future expansion; but, this extension is not required at this time. Should the extension be required in the future, the entity/developer constructing a future building that needs this extension will need to negotiate with our Offeror for an easement and the cost of the extension and construction of Sower Boulevard that can be dedicated to the City of Frankfort.

k. Construction employee parking will be restricted to the building site or as designated, in writing, by Commonwealth. The parking lot is to be constructed in accordance with the requirements of the Frankfort/Franklin County Planning and Zoning Ordinance and shall take into consideration the design criteria indicated in the geotechnical report. The construction of either concrete parking pavement, or bituminous parking pavement is at the option of the Offeror.)

- Utilities:

a. The Offeror is responsible for its own utilities throughout construction without reimbursement by the Commonwealth. The Offeror shall secure temporary power from the

- Frankfort Plant Board on a temporary electrical service. This service shall be metered in the manner prescribed by the Utility. Existing utility infrastructure components (water, electric, sanitary sewer, natural gas, telephone, and internet) shall be extended to the project site by and at the expense of the Offeror. The Commonwealth has had preliminary discussions with the City of Frankfort and the Frankfort Plant Board to alert them to the fact that utility services, under the control of those entities, will be necessary for this construction project at Sower Boulevard. However, specific utility requirements, easements, tap-ons, etc. shall be coordinated and the cost of such borne by the Offeror.
- b. Portable sanitary facilities shall be by and at the expense of the Offeror. These portable sanitary facilities shall be maintained in proper conditions at all times by the Offeror.
 - c. Temporary heat, as necessary, to maintain required temperatures for installation of finish materials and protection of construction that is affected by low temperatures or temperature swings shall be by and at the sole expense of the Offeror.
 - d. Adequate water service is available to the site through a 12" line along side Sower Boulevard and an 8" line following Flynn Avenue. Domestic and fire suppression water services will be available for the project upon request and coordination of the Offeror to the Frankfort Plant Board.
 - e. Sanitary sewer service is available to the property by gravity flow to the Capitol Avenue pump station. No sanitary sewer concerns have been identified for this portion of the system. Additional demands on the facility will require an assessment by and at the sole expense of the successful Offeror to determine available capacity in the system. Based on the magnitude of the additional demand, the City of Frankfort Sewer Department will determine the extent of the downstream analysis, at the successful Offeror's request and expense. Sanitary sewer service will be available for the project upon request and coordination of the Offeror to the Frankfort Plant Board.
 - f. Storm sewer service is not available – all storm water will be designed and constructed as part of the site and topography and be acceptable to the appropriate and proper authorities, including federal, state, and local governments.
 - g. Gas service is available to the Sower Boulevard property. Two existing lines are on the property, an 8" steel welded treated high pressure line crosses through the two properties wrapping around to the south of the Central Lab facility and a 3" steel welded treated high pressure line runs along the east side of Sower Boulevard to the East West Connector. The system maintains 140 pounds per square inch of pressure in this area. Natural gas services will be available for the project upon request and coordination of the Offeror to Columbia Gas of Kentucky.
 - h. The Sower Boulevard property is served by both overhead and underground 3-phase electric facilities. The existing service is equipped with a heavy line and large conductor with available capacity for further development to the site. Upgrades are also anticipated in two to three years with improved lines from the State Farm Substation and extension to the Chenault Industrial Park to establish a 13.2kV circuit to complete the loop. A Kentucky utilities transmission line runs north south from the East West Connector to the Trumbo Bottom through the Carpenter property and east of the Public Service Commission. Permanent electrical power will be available for the project upon request and coordination of the Offeror to the Frankfort Plant Board. Primary power to the site and the connection point is to be obtained by the Offeror from the Frankfort Plant Board. The services will be underground, in keeping with other development in the area.
 - i. Current telephone service is provided to the site by copper service lines with a capacity of 400 lines, as well as fiber optic lines. A fiber-optic fed carrier on Glenns Creek Road will serve the area. An AT&T fiber optic line is located along the top edge of the escarpment to the south of the property. Communications conduit will be available for the project upon request and coordination of the Offeror to the Frankfort Plant Board.
- Coordination:
 - a. Coordinate all design and construction procedures/activities in advance with the Commonwealth Points of Contact (POC).

Building Code Requirements and Compliance:

- As indicated previously, all constructed elements of the project shall comply with the current edition of 'The Kentucky Building Code' (KBC) and all supplements including all other referenced applicable code requirements, and the General Requirements of this RFP, the Frankfort/Franklin County Planning Commission requirements (for site design only), comply with latest ASHRAE 90.1 2010 Energy standards. The project shall also be constructed in accordance with contract documents prepared by architects and engineers registered to do business in the Commonwealth of Kentucky.
- Completion of the project shall be based on acceptance by owner and the receipt of a "Certificate of Occupancy" issued by:
Kentucky Department of Housing, Buildings, and Construction
Division of Building Codes Enforcement
101 Sea Hero Road, Suite 100
Frankfort, KY 40601
Phone: (502) 573-0373
- Complete compliance with the Americans with Disabilities Act compliance is required.
- Installation of a 100% coverage sprinkler system in accordance with the current NFPA guidelines.
- All other applicable regulatory requirements issued by the authorities having jurisdiction.
- The design and construction of the project will be coordinated with Commonwealth and in accordance with the Restriction on Communications section within this RFP.

A series of minimum building standards for the proposed office building, and infrastructure related to this RFP, are provided in Exhibit I. These are minimum standards that must be met as part of the Offeror's response to this RFP.

The Commonwealth of Kentucky shall provide an access easement (see attached Exhibit E draft easement between the Commonwealth, as Grantor, and successful Offeror, as Grantee) for ingress and egress to the site for the duration of the lease term. After the construction period, the actual access shall be non-exclusive and as described as: from Sower Boulevard to the East-West Connector. Should the Offeror require a permanent ingress and egress easement, the Offeror shall be responsible for providing a metes and bounds description for a survey of such easement.

C. Programmatic Scope of Work:

Note: Furniture, and equipment are NOT INCLUDED in this scope of work, as listed below. Examples of furniture include desks, chairs, computers, electronic equipment, business machines tables, bookcases, and cubicle partitions. The Commonwealth shall also provide items such as: tables and chairs (in vending area); telephone system; modular furniture system (for office area).

- General & Specific Requirements:

For general and specific requirements pertaining to this project, please see attached Exhibit I.

The Commonwealth shall provide:

- a. Property descriptions and plats for conveyance to Offeror, completed by HMB.
- b. The City completed a Phase I environmental when originally purchasing the entire farm, upon which the Project site is located. There were no known environmental issues. There is a Native American burial ground located near the power tower, to the front of the Commonwealth Credit Union, closer to the East-West Connector (KY676). The Commonwealth does not have a copy of the City's Phase I; however, the results of the City's

Phase I are included herein.) There are no known environmental issues, including wetlands, that the Commonwealth is aware of, that needs to be mitigated.)

- c. Geotechnical report, completed by S&ME Engineers, Inc.

NOTE: The Commonwealth does not expect any changes/add-ons/change orders to structure(s) detailed in this solicitation. However, should any changes/add-ons/change orders unexpectedly be required by the tenant occupying the building(s), then those changes/add-ons/change orders will be completed according to KRS 56.813.

D. Prevailing Wages

The successful Offeror is obligated to adhere to the prevailing wages laws (KRS 337.530-337.550) for one hundred percent (100%) of the entire project at Sower Boulevard. See attached wage rates, as Exhibit B; these are for *informational purposes only*. The attached wage rates are "not an official document." **Offeror is solely responsible for contacting the Labor Cabinet for official wage rates.**

E. Exterior

The successful Offeror shall provide a detailed parking, landscaping, and layout and entrance plan for all exterior areas of the project. All such plans shall be ADA compliant and shall comply with all state and federal building codes. All site development shall comply with the requirements of the Frankfort/Franklin County Planning and Zoning Commission.

F. Infrastructure Items

Infrastructure items are defined as parking, roads, electric service, wastewater, potable water, fire protection water supply, fiber and telephone line. Infrastructure must support a rate of 257 GSF/per person.

G. Waste Handling and Garbage Disposal

The Offeror, at its own expense, shall be responsible for providing for all construction trash and garbage disposal and removal from the entire project area. All waste handling, storage, and removal shall comply with state and national health and environmental requirements.

H. Proposed Lease/Construction Site and Subsurface Conditions

The Offeror is responsible for all other due diligence investigations, including sub-surface conditions, beyond those provided by the Geotechnical Subsurface Investigations Report by S&ME Engineers, which is a part of this RFP, and all costs associated therewith, at the designated site.

I. Warranty of Suitability

The Commonwealth makes no guaranty or warranty, either expressed or implied, with respect to the property upon which the Project will be located.

The successful Offeror is expected to have examined the property and to have formed his/her own conclusions as to its suitability for the stated purposes.

J. Early 'Buy-out' of Lease

KRS 56.820 provides:

The lease shall provide that the Commonwealth of Kentucky may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the buildings and appurtenances not amortized by the payments of rent previously made by the Commonwealth of Kentucky. The lease shall provide that in the

event of the exercise of the option to purchase the leased premises or in the event the lease has been extended for the full number of years which it is agreed the same may be extended and all rents and payments provided for in the lease have been made, the lessor (the Offeror) shall convey the premises to the Commonwealth of Kentucky, in fee simple with covenant of general warranty of title.

Attached, as Exhibit J, is a template of a lease between the Commonwealth of Kentucky, as Lessee, and the successful Offeror, as Lessor. Attached to that lease, there will be an annual schedule setting forth an amortization schedule and payments of rent for the term proposed by the successful Offeror.

V. Lease Terms and Conditions

A. General

The contract between the Commonwealth of Kentucky and the Offeror shall consist of (1) the Request for Proposals (RFP and any addenda thereto), (2) the Offeror's proposal submitted in response to the RFP, (3) the lease from the Offeror to the Commonwealth. In the event of a conflict in language between the documents referenced above, the provisions and requirements in the documents shall take precedence in the following order: (1) the Lease; then (2) the RFP and any amendments thereto; then (3) the Submittal. All written addenda and supplements shall take precedence over the documents they modify.

In the event that an issue is addressed in one document that is not addressed in the other document, no conflict in language shall be deemed to occur. However, the Commonwealth reserves the right to clarify any lease relationship, in writing, with the concurrence of the Offeror, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Offeror's proposal.

No modification or change of any provision in the lease shall be made, or construed to have been made unless such modification is mutually agreed to, in writing, by the Offeror and the Commonwealth, and incorporated as a written amendment to the lease and processed through and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change. Memoranda of Understanding and correspondence shall not be construed as amendments to the lease.

The lease shall be construed and interpreted according to the laws of the Commonwealth of Kentucky. Any legal proceedings against the Commonwealth regarding this RFP or any resulting lease shall be brought in Commonwealth of Kentucky administrative or judicial forums. Venue will be in Franklin County, Commonwealth of Kentucky.

B. Lease Agreement

The lease shall provide for an initial lease term, commencing the date the building(s) are accepted for occupancy by the Commonwealth, and ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with an option in the Commonwealth, as Lessee, to extend the term of the lease for a term of two years from the expiration of the original term of the lease and for two years from the expiration of each extended term of the lease, or until purchase of the building(s), by the Commonwealth until the original two year term of the lease has been extended for a total number of years to be agreed upon by the parties. The Commonwealth cannot structure a long term lease, per KRS 56.806. The rent, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building(s) and appurtenances. The rent shall be paid at such time as the parties to the lease agreed upon in the lease agreement. The lease shall provide that the lessee may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the building(s) and appurtenances not amortized by the payments of rent previously made by the lessee. The lease shall provide that in the event of the exercise of the option to purchase the leased premises or in the event the lease has been extended, and all rents and payments provided for in the lease have been made, the Offeror/lessor shall convey the premises to the Commonwealth/lessee in fee simple with covenant of general warranty of title. Defeasance costs associated with an early buy-out/pay-off are essentially a penalty imposed by the Offeror's financial institution for early payment of the loan and

will not be considered a part of the "total cost of erection" and shall not be included in the option price.

Any development will be made subject to all rights of easement holders identified in the deed of conveyance to the Commonwealth from the City of Frankfort, filed of record in DB 372/PG 613, which is attached hereto and made a part hereof as Exhibit K. All the provisions of said deed shall be binding upon both parties. The Offeror shall abide by all rules and regulations which may be promulgated by the Commonwealth of Kentucky, in connection with the use of the premises.

BIENNIAL RENEWAL

Due to the constitutional limitations of the biennial budget cycle, the Commonwealth enters into contracts for two year terms. The infrastructure of the Commonwealth's procurement system fundamentally operates under this premise and all of the Commonwealth's administrative efforts support this institutional rule.

From a practical standpoint, the ability of the Commonwealth to operate and contract with non-public vendors necessitates that the Commonwealth enter into contracts that will cross at least one, and sometimes several biennium. While it is true that the Commonwealth technically possesses the ability to end a contract with a vendor after one biennium, this option is rarely, if ever effectuated, as it is rarely in the Commonwealth's best interests. For example, a decision by the Commonwealth to exercise a termination provision in connection with a project financed through bonds or any contract for capital construction or built-to-suit, would cause financial harm devastating to the Commonwealth's overall interests.

Given the practical limitations on the Commonwealth's right to terminate contracts involving capital construction projects or built-to-suit projects, the Commonwealth is confident that this issue will not be an impediment to transacting business with the Commonwealth.

C. Commencement of Construction

Construction of the building project shall commence immediately upon award of contract, conveyance of the land, and execution of the lease by the Commonwealth of Kentucky. The successful Offeror shall be required to obtain any and all regulatory approvals, by and at the sole expense of the successful Offeror. The Commonwealth will agree to a reasonable extension of time for providing for designated the facilities and services, when a delay in providing the facilities and services is beyond the control of the Offeror. The Commonwealth will coordinate the review process with the Department of Housing, Buildings and Construction ("DHBC") and the approval of the Finance and Administration Cabinet's Division of Engineering and Contract Administration ("DECA") will be required, as well.

Occupancy shall be no later than June 1, 2016. Substantial Completion [the date upon which the Commonwealth occupies the building(s)] and Final Completion dates are June 1, 2016 and August 15, 2016, respectively. Substantial and/or Final Completion dates may be adjusted by the Commonwealth for acts of God, such as tornadoes, earthquakes. Also see coordinating language in Subsection C 1 below.

1. Time For Completion: Offeror shall commence the Work on the Commencement Date based on the Approved Schedule and the Work shall be carried out regularly and without interruption. Estimated construction time is within the time available between the execution of the lease agreement with the Commonwealth of Kentucky and the date indicated in this RFP for Substantial and Final Completion... Completion before the date of substantial completion does not require the Commonwealth to occupy. Completion after the substantial completion date invokes liquidated damages, according to Subsection C 3 below.
2. Offeror shall substantially complete the Work not later than outlined in the Approved Schedule (the "Scheduled Completion Date"). The number of calendar days between the

effective date of the Contract and the Scheduled Completion Date is the "Contract Time". Offeror shall achieve Final Completion of the Work as outlined in the Approved Schedule.

3. Liquidated Damages For Delay In Substantial Completion: Offeror shall pay the Commonwealth the sum of \$8,000.00 for each and every calendar day of delay in achieving Substantial Completion beyond the Scheduled Completion Date. Any sums due and payable hereunder by Offeror shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Commonwealth. Such liquidated damages shall apply regardless of whether Offeror has been terminated by Commonwealth prior to Substantial Completion so long as Offeror's actions or inactions contributed to the delay. Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects in Offeror's performance hereunder for matters other than delays in Substantial Completion. When Commonwealth reasonably believes that Substantial Completion will be inexcusably delayed, Commonwealth shall be entitled, but not required, to withhold from any amounts otherwise due to Offeror an amount then believed by Commonwealth to be adequate to recover liquidated damages applicable to such delays. If and when Offeror overcomes the delay in achieving Substantial Completion, or any part thereof, for which Commonwealth has withheld payment, Commonwealth shall promptly release to Offeror those funds withheld, but not longer applicable as liquidated damages.

The inability of the Offeror to obtain proper financing, approved in advance by the Commonwealth, by the aforementioned deadlines for submission of a comprehensive work plan and project timeline, shall not constitute a reasonable reason for an extension of time.

Construction of the Project must be commenced within the approved schedule, and which shall include review and approval by all state governmental agencies. The Offeror will not be authorized to construct, erect, or place any structure or other facility upon the premises, or to make any major alteration to an existing structure or facility without the prior written approval of the Commonwealth and the Department of Facilities and Support Services. Requests for same shall be made in writing to the Department for Facilities and Support Services/Finance and Administration Cabinet.

Should the Offeror, after commencing and during the construction/development phase of the Project, abandon or for any reason fail to complete the facility, title to all materials or improvements on the premises shall immediately vest in and become the property of the Commonwealth. The Offeror may not remove the structures, improvements, and equipment, erected or placed upon the leased premises, without the prior written approval of the Commonwealth. Additionally, (if applicable) the deed from the Commonwealth to the successful Offeror shall contain a reversionary clause in favor of the Commonwealth, should the successful offer abandon or for any reason fail to complete the facility. Such reversionary clause shall give the Offeror the opportunity to cure any default of the terms and conditions of the contract documents within thirty (30) days of receiving notice of such default prior to the effective date of such reversionary clause. Upon approval from the Commonwealth to remove any structures, improvements, or equipment placed upon the premises, the Offeror must repair any damage to the premises resulting from the removal of the structures, improvements, or equipment.

D. Rent Payable to the Lessor/Successful Offeror

The annual base rent excludes utilities and janitorial services. The base rent includes full maintenance of the facility as defined in Exhibit I, during the entire lease period. The annual base rent will be paid in increments and shall be due by the Commonwealth in equal quarterly payments to the successful Offeror. The annual rent will not be subject to indexation or escalation of the life of the term of the lease. The Lessor will be responsible for operations, daily and preventative maintenance of all building systems of all building systems, insurance of the building and site, snow removal, lawn care, etc. The Lessee will be responsible for all utilities, janitorial services [including pest control], moveable equipment, furnishings and non-building systems equipment, and insurance of the contents of the building.

E. Taxes

The successful Offeror will be responsible for paying all state and federal taxes assessed against the project development and the operations conducted on the demised premises.

F. Liens Against the Leased Premises

Nothing in this RFP shall in any way be deemed or construed as constituting an order or request by the Commonwealth, expressed or implied, to any contractor, subcontractor, supplier, materialman or laborer, for the performance of any labor or the furnishing of any materials for the construction or maintenance of any improvements on, alterations to, or other improvements of the leased premises; nor as giving the Offeror any right, power or authority to grant for or permit the rendering of any services or furnishing of any materials that would give rise to the filing of any mechanic's liens against property owned by the Commonwealth. Nothing herein shall be construed as a waiver of sovereign immunity by the Commonwealth.

G. Subleasing, Assignments, or Mortgages' of Offeror's Interest

During the course of the lease agreement or any renewal thereof, the Offeror shall not voluntarily, involuntarily, or by operation of law assign, sublet, mortgage or transfer the lease agreement or any interest created therein to any other person, partnership, corporation or other entity without first notifying and obtaining the prior written consent of the Commonwealth, by and through the Finance and Administration Cabinet. Any attempt to assign, sublet, mortgage or transfer, the lease agreement or any interest created therein without such consent shall be void. If an assignment, sublet, mortgage or transfer of this the lease is made with the consent of the Commonwealth, the Offeror shall not be relieved from the performance of the terms of the lease or from the performance of all other terms, covenants and conditions of the lease. If the Offeror is a corporation, then any transfer of the agreement by merger, consolidation or liquidation, or any change in ownership of, or power to vote the majority of its' outstanding voting stock shall constitute an assignment for the purposes of this section. If consent is once given by the Commonwealth to any such assignment, mortgage or subletting, such consent shall not operate as a waiver of the necessity for obtaining the Commonwealth's consent to any subsequent assignment, mortgage or subletting. Furthermore, any change in the Offeror's business status, i.e., partnership, corporation, should be reported to the Commonwealth immediately.

No assignment, subletting, transfer or mortgage of Offeror's interest in the property shall be effective or binding against the Commonwealth until such time as the assignee and the Commonwealth execute an amendment to this agreement reflecting such transfer.

The Commonwealth agrees not to assign or sublet the resulting Lease except to a desirable tenant and for a similar purpose, and will not permit the use of the premises by anyone other than the Commonwealth, the Federal Government, or such suitable sub-lessee, and the agents and servants of the Commonwealth, the Federal Government, or such suitable sub-lessee.

H. Hold Harmless

The Offeror shall indemnify and hold harmless the Commonwealth, and its sub-lessees, any of their departments or agencies, or officers or employees, from any and all claims, demands, damages, actions, costs, including attorney fees, and charges which the Commonwealth or the Offeror may have to pay by reason of injury to any person or property or loss of life or property resulting from or in any way connected with the character, condition or use of the premises or any means of ingress thereto, or egress therefrom, or resulting from the Offeror's operations on the premises, unless such injury or loss arises directly from the negligence of the Commonwealth, any of its sub-lessees, departments or agencies, or officers or employees while acting within the scope of their employment.

The Offeror shall, at its own expense, assume defense of such claims and actions for damages arising out of such injuries or losses which may be brought against the Commonwealth by third persons; and shall pay such judgments that may be rendered in such actions, unless such claims or actions for

damages and/or judgments arise directly from the negligence of the Commonwealth, and any of its departments or agencies, or any of its officers, agents or employees while acting within the scope of their employment.

I. Attorney's Fees

In the event that either party deems it necessary to take legal action to enforce any provision of the resulting lease, and in the event the Commonwealth prevails, the Offeror agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. County of venue shall be Franklin.

J. Notices

After lease award, all notices under the lease shall be either mailed by registered or certified mail addressed, or hand delivered, to the receiving party. The customary receipt shall be conclusive evidence of such service.

K. Offer of Gratuities

By submission of proposal, the Offeror certifies that no member of or delegate of Congress, nor any elected or appointed official or employee of the Commonwealth of Kentucky has or will benefit financially or materially from this procurement. Any lease arising from this procurement may be terminated by the Commonwealth if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the Offeror, his agents, or employees.

L. Conflict of Interest

No official or employee of the Commonwealth or no other public official of the Commonwealth of Kentucky who exercises any functions or responsibilities in the review of approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the lease or proposed lease.

M. Performance and Payment Bonds

The Offeror shall procure payment and performance bonds in favor of the Commonwealth in the amount of one hundred percent (100%) of the designated amount of the Project as security for the faithful performance of the construction required, including liquidated damages that may become due as a result of late completion of the project and the payment of all persons who have and fulfill subcontracts which are directly with the Offeror. Such payment and performance bonds shall be issued by a reputable insurance company, authorized to do business in the Commonwealth. The Offeror shall, before beginning the construction/development of facilities, require of any subcontractor employed by the Offeror to construct said facilities, a surety bond or bonds in form satisfactory to the Commonwealth. These bonds shall protect the leased premises against the imposition of mechanics and materialsman's liens and guarantee performance of the construction subcontract. All bonds shall be executed by a surety company authorized to do business in the Commonwealth.

Performance and Payment Bonds Requirements:

1. Each bond furnished by the Offeror shall incorporate, by reference, the terms of the Contract as fully as though they were set forth verbatim in such bonds. In the event a Change Order(s), executed by the Offeror, adjusts the Contract Sum, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount.
2. The Offeror's bond (s) shall include a provision that will guarantee the faithful performance and payment of the prevailing hourly wage as set forth in the schedule incorporated in the Contract.

N. Construction/Development (Plan Approval)

(All approvals will meet the Project schedule contained within this RFP.)

1. All construction/development plans will be submitted to and must have prior approval of the Finance and Administration Cabinet, Department for Facilities and Support Services as indicated in Exhibit I, before construction/development is commenced. Such approval will not be unreasonably withheld. Such approval is not intended to verify constructability or conformance with any applicable codes, but rather is intended to ensure that the design meets the Offeror's intent and program requirements. The drawings and the specifications shall be stamped with the registration seal of the professional involved in the design.
2. The Commonwealth encourages and prefers the construction of the project such that:
 - (a) Increases environmental performance and economic value over time;
 - (b) Enhances satisfaction and productivity of workers through energy-efficient systems;
 - (c) Incorporates environmentally friendly materials and products; and
 - (d) Reduces waste;
3. Plan approval must be obtained from the state Department of Housing, Building and Construction. All fees, state and local, shall be the responsibility of the successful Offeror. This regulatory agency will review drawings for plumbing, fire marshal compliance, ADA accessibility and Kentucky Building code regulations. Proof of this approval must be provided to the Department for Facilities and Support Services before commencement of construction and operation. Upon completion, copies of all permits and certificates shall be submitted to the Department for Facilities and Support Services, along with "as built" plans.
4. The Department for Facilities and Support Services may also make compliance inspections to ensure that the facility is being constructed, operated, and furnished in a manner that provides a safe and healthy environment for the public.

O. Protection of Work, Property, Employees, and Public

The Offeror shall continuously maintain adequate protection of all his/her work from damage and shall protect the Commonwealth's property from injury or loss arising in connection with this lease. Offeror shall make good any such damage, injury, or loss. Offeror shall adequately protect adjacent property as provided by law and the lease documents.

The Offeror shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of the state's workers' compensation laws and all federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. The Offeror shall designate a responsible member of his/her organization on the work as safety officer, whose duty shall be to enforce safety regulations. The name and position of the person so designated shall be reported to the architect by the Offeror.

The Offeror shall be responsible for the protection and subsequent repair of adjacent property during the course of construction from any potential damage caused by the construction and development of the project. The Offeror shall also be responsible for cleaning the adjacent property and public roads and paved areas of mud and debris originating from the construction project.

P. Insurance

1. Liability Insurance

The successful Offeror will be required to obtain, from a reputable insurance company authorized to do business in the Commonwealth, and carry liability of indemnity insurance providing as a minimum, a combined single limit of \$5,000,000 for any number of persons and/or claims. Said insurance shall name

the Commonwealth as additional insured and shall also provide that said policy shall not be subject to cancellation, termination or change without at least thirty (30) days prior written notice to the Commonwealth. Offeror must furnish a copy of its insurance policy to the Department of Facilities Management prior to commencement of operations, and on an annual basis thereafter for the full term of the lease and any renewals thereof.

After award of the lease, the minimum liability amounts of required coverage established under this Section (P. 1) shall be subject to modification by the Commonwealth, upon sixty (60) days written notice to the Offeror.

2. Professional Liability Insurance

The Offeror shall furnish Professional Liability (Errors and Omissions) Insurance in the amount of \$1 million per occurrence, \$2 million aggregate, and this policy shall remain in effect for a minimum of three (3) years beyond the final completion date of the project, to the extent commercially available. If not commercially available, the Offeror shall notify the Owner and shall obtain similar insurance that is commercially available and acceptable to the Commonwealth. A copy of the certificate of insurance shall be provided by the Offeror to the Owner upon execution of the contract. The insurance policy must be dated and in force on the date indicated in the documentation to begin work. The insurance coverage required by the lease document shall be in compliance with the laws of the Commonwealth and shall be placed with a licensed resident local agent in Kentucky who represents insurance companies authorized to do business in Kentucky.

3. Builder's Risk Insurance

The Offeror shall furnish Builder's Risk Insurance, including the perils of fire, extended coverage, vandalism and malicious mischief in an amount of not less than one hundred percent (100%) of the insurable value of all the work and the coverage, written on the Completed Value Form 17-C, latest edition, including extended coverage endorsement form #61, latest edition, and malicious mischief endorsement form #205, latest edition, or on the "All Risk Completed Value Form". Such insurance shall be for the benefit of the Offeror and any subcontractor engaged on the project, as their respective interest may appear. The Builder's Risk Insurance must be dated and in force on the date indicated in the documentation to begin work. The insurance coverage required by the lease document shall be in compliance with the laws of the Commonwealth and shall be placed with a licensed resident local agent in Kentucky who represents insurance companies authorized to do business in Kentucky. The contract amount shall be insurable value unless otherwise noted in the contract documents. All insurance certificates shall be submitted in duplicate to the Offeror and Commonwealth and carry the provision that a 30-day written notice shall be given prior to cancellation by the company to the Offeror and the Commonwealth.

Q. Maintenance of Development

The successful Offeror, at its sole expense, will maintain the leased property, both on-going and capital, during the entire term of the resulting lease-back. The Offeror agrees to maintain the premises including sidewalks, covered walkways, and parking lots in good order to ensure safe, sanitary, and habitable occupancy by the Commonwealth. The Offeror shall also be responsible for landscaping the project site, mowing and snow removal throughout the duration of the lease-back agreement. The Offeror shall agree to maintain all mechanical equipment, building(s) systems, and fixtures included in the leased premises in safe and good working order. The Offeror shall agree to maintain all structural components (including, but not limited to: roof, building envelopes, glass, etc.) in safe and good condition. The Offeror shall agree to maintain all building(s) finishes in a safe and acceptable condition and will replace interior finishes that become unsuitable due to normal wear and tear. All such repair and maintenance is at the Offeror's sole expense. The Commonwealth is entitled to inspect the property annually during the lease term in coordination with the successful Offeror. All state inspections will follow existing procedures for the Commonwealth. Offeror will be furnished copies of state inspections such as state fire marshal inspection results. Maintenance of the building(s) by successful Offeror shall include construction warranty items; warranties typically cover one year after acceptance of the building(s).

R. Title to Land and Improvements Upon Expiration or Termination

During the initial term of the lease agreement or any renewal thereof, title to the land, all building(s), structures, additions, changes, and other improvements, including fixtures, shall remain with the Offeror. All building(s), structures, additions, changes and other improvements, including fixtures, erected or placed on the leased premises, shall remain thereon. At the expiration or termination of the lease agreement, any and all such land, building(s), structures, additions, changes and other improvements shall be conveyed by the Offeror to the Commonwealth. Prior to conveyance of the property to the Commonwealth, both parties shall complete a walk-through inspection of the building(s) and property to determine what, if any, repairs or corrections must be completed by the Offeror prior to conveyance of the property to the Commonwealth. Additionally, at the end of the lease term and prior to conveyance of the improved property, the Commonwealth expects the Offeror to provide to the Commonwealth a minimum five year warranty on the roof of the building(s).

S. Employment Practices

The Offeror shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Offeror must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, status, political affiliation, or disability. Such action shall include, but is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Offeror agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this clause.

The Offeror shall, in all solicitations or advertisements for employees placed by or on behalf of the Offeror, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, and the implementing rules and regulations prescribed by the Secretary of Labor and with Title 41, Code of Federal Regulations, Chapter 60. The Offeror shall comply with related Commonwealth laws and regulations.

The Offeror shall comply with regulations issued by the Secretary of Labor of United States in Title 20, Code of Federal Regulations, Part 741, pursuant to the provisions of Executive Order 11785 and the Federal Rehabilitation Act of 1973. The Offeror shall comply with the Civil Rights Acts of 1964 and any amendments thereto, and the rules and regulations thereunder, and Section 504 of Title V of the Vocational Rehabilitation Act of 1973 as amended and the Kentucky Civil Rights Act.

T. Permits and Licenses

The successful Offeror shall procure respective necessary permits, licenses, and certificates which are required by state laws, and local zoning ordinances, and abide by all applicable laws, regulations, and ordinances of all federal, state, and governments.

The Offeror shall conform to operational standards of the Commonwealth and to all bona fide rules, procedures pertaining to same as may be promulgated by the Commonwealth of Kentucky.

U. Right of Entry

Both parties shall have access to the property, subject to the restrictions contained herein and the policies of the Commonwealth.

V. Termination

Termination – General Terms

Any successful Offeror who is determined to be in breach of any of the terms and conditions of the contract documents, including but not limited to the lease shall be declared in default and the contract and lease may be terminated.

Termination notice. The Commonwealth shall terminate a contract by written notice to the Offeror. The notice to the Offeror shall be sent certified mail, return receipt requested, and shall state:

- (a) The lease is being terminated for the convenience of the Commonwealth, or for default by the Offeror;
- (b) The effective date of termination;
- (c) The extent of termination; and
- (d) Any special instructions.

Termination for Default.

The Commonwealth may terminate the contract and lease because of the successful Offeror's failure to perform the terms and conditions of the contract or lease. If an Offeror is determined to be in default, the Commonwealth shall notify the Offeror of the determination in writing, and may include a specified date by which the Offeror shall cure the identified deficiencies. The Commonwealth may proceed with termination if the Offeror fails to cure the deficiencies within the specified time.

A default in performance by an Offeror for which a contract and lease may be terminated shall include, but shall not necessarily be limited to:

- (a) Failure to perform the lease according to its terms, conditions and specifications;
- (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
- (c) Late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
- (d) Failure to diligently advance the work under a contract for construction services;
- (e) The filing of a bankruptcy petition by or against the lessor; or
- (f) Actions that endanger the health, safety or welfare of the Commonwealth or its citizens.
- (g) Failure to provide proof of project financing by a date determined in the sole discretion of the Commonwealth.
- (h) The cure provisions set out in this RFP do not apply to subparagraph (g).

The Commonwealth shall not be liable for any further payment to an Offeror under a contract terminated for the Offeror's default after the date of termination as determined by the purchasing officer except for commodities, supplies, equipment or services delivered and accepted on or before the date of termination and for which payment had not been made as of that date. The Commonwealth may require the Offeror to transfer title and deliver to Commonwealth completed supplies and manufacturing materials. The Offeror and his surety, if a performance or payment bond has been required under the lease/RFP, shall be jointly and severally liable to the Commonwealth for all loss, cost or damage sustained by the Commonwealth as a result of the Offeror's default. An Offeror's surety liability shall not exceed the final sum specified in the contractor's bond.

The lessor shall be liable to the Commonwealth for any excess costs incurred in acquiring supplies and services similar to those terminated for default, and for any other damages or remedies available either at law or in equity.

30 DAY TERMINATION CLAUSE

The Commonwealth may terminate this lease pursuant to the provision of KRS 56.806(6).

Although the Commonwealth of Kentucky retains the right to terminate any lease of property pursuant to

K.R.S. 56.806(6), it is extremely unlikely this right would ever be invoked with this Project. Furthermore, as a part of this solicitation, the Commonwealth is obligated to purchase the leased property from the Offeror, as a part of any early termination of the lease or at the expiration of the lease term for a price that fully reimburses the Offeror for its cost incurred in constructing the improvements. Given these conditions, it does not appear the Offeror is at any risk of loss due to this statutory provision.

W. Procedure on Termination

Upon delivery by certified mail to the Offeror of Notice of Termination specifying the nature of the termination, the extent to which performance of work under the agreement is terminated and the date upon which such termination becomes effective, the Offeror shall stop work under the agreement on the date indicated and to the extent specified in the Notice of Termination.

X. Force Majeure

The Offeror will not be liable to the Commonwealth if failure to perform the agreement arises out of causes beyond the control and without the fault or negligence of the Offeror. Such causes may include, but are not restricted to, acts of God, fire, quarantine restriction, strikes and freight embargoes. In all cases, the failure to perform must be beyond the control and without fault or negligence of the Offeror. The Offeror will take all possible steps to recover from such occurrences.

Y. Premises Destroyed by Fire

If the premises are destroyed by fire or other casualty, the resulting Lease shall immediately terminate. In case of partial destruction or damage so as to render the premises untenable, the Commonwealth may terminate or suspend this Lease by giving written notice to the Lessor within 15 days after such partial destruction or damage, and, if so suspended, no rent shall accrue to the successful Offeror after the date of such partial destruction or damage until after such damage is repaired and premises are considered tenantable by the Commonwealth. All insurance coverage, pursuant to Section P herein, shall name the Commonwealth as additional insured.

Z. KRS.45A.330 – 45A.340 or 45A.990 and KRS Chapter 11A

The successful Offeror certifies by his signature to the resulting Lease that he ("he" is construed to mean "they" if more than one person is involved; and, if a firm, partnership, corporation, business trust or other organization is involved, the "he" is construed to mean any person with an interest therein) is legally entitled to enter into contracts with the Commonwealth of Kentucky and that holding and performing such contract(s) will not be violating either any conflict of interest statute (KRS 45A.330 – 45A.990) of the Executive Branch Code of Ethics, KRS Chapter 11A, or any other applicable statute or principle by the performance of the resulting Lease, or will he realize any unlawful benefit or gain directly or indirectly from it. The successful Offeror further certifies that he has not knowingly violated any provisions of the campaign finance law of the Commonwealth, and that by entering into the resulting Lease Agreement he will not be in violation of the campaign finance laws of the Commonwealth.

AA. Change or Transfer of Ownership Involving 5% or More in Stock

The successful Offeror agrees to notify the Commonwealth of all persons owning or upon any change or transfer of ownership involving 5% or more in stock, in partnership, business trust, or corporation, including silent or limited partners. Non-compliance may result in termination of the Lease Agreement.

AB. Access to Books

The Offeror, the contractor, as defined in KRS 45A.030(9), agrees that the the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence which are directly pertinent to this contract for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records, or other evidence provided to the

contracting agency the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet, as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency provides the service.

VI. Proposal Evaluation

A. Schedule:

On or about November 20	Advertise Request for Proposals (RFP), with recommended schedule
On or about December 2	Cut-off for acceptance of responses to notice of project (NOTE: responses for requests for copies of RFP must be submitted on one-page Commonwealth of Kentucky Solicitation form, which may be obtained by email to Paul.Gannoe@ky.gov)
On or about December 4	Pre-proposal conference with all interested parties – review lease and construction issues
On or about December 8	All inquiries submitted by Offerors to Buyer
On or about December 11	Official answers to all inquiries issued by Addendum to RFP
On or about December 30	Receipt date for submittals.
On or about January 14	Selection committee reviews proposals and selects three shortlisted firms
On or about January 16	Committee conducts Oral Presentations
On or about January 16	Award contract, convey property, enter into lease

B. General Information:

The selection process shall be conducted as follows, and in accordance with KRS 56.8169 et seq.

The Department for Facilities and Support Services shall provide adequate public notice of the RFP and notice of materials to be provided to assist firms in responding to the RFP, to include the RFP and proposed evaluation sheet. Notice shall also set the time/date for response to the public notice. A firm or representative of a firm shall respond on or before the time and date established and the response shall be in the form determined by the Department for Facilities and Support Services, providing firm's name and address. All responses submitted on or before designated time shall be opened, publicly read, or posted and kept on file. **A FIRM WHICH FAILS TO MEET THE DEADLINE OUTLINED IN THE INITIAL NOTICE SHALL BE DISQUALIFIED AND BARRED FROM FURTHER PARTICIPATION IN THIS PROCUREMENT PROCESS.** At least one member of a consortium must have submitted the Notice

The Commonwealth will conduct an evaluation of proposals received in response to this Request for Proposals. This evaluation will be conducted by a committee comprised of representatives from the Finance and Administration Cabinet, the Auditor of Public Accounts, and other resource agencies and/or private sector entities. Items to be given specific attention during the evaluation process are as follows:

THE SUCCESSFUL OFFEROR'S PROPOSAL DOCUMENTS WILL BECOME PART OF ANY FINAL LEASE AGREEMENT. ALL ITEMS LISTED MUST BE THOROUGHLY ADDRESSED IN YOUR WRITTEN PROPOSAL.

Please include eight (8) complete hard copies and one electronic copy of proposal document and all attachments.

The following are checklists of documentation/items that MUST be included in your response; otherwise, your proposal shall be deemed non-responsive to this solicitation:

Proposal Contents:

- ☐ 'Commonwealth of Kentucky Solicitation', filled out and signed

TAB A

- ☐ Transmittal Letter
- ☐ Narrative of Design Intent
- ☐ Corporate Background and Experience
- ☐ Financial

TAB B

- ☐ Technical Proposal - Project Approach and Required Drawings and Documents

TAB C

- ☐ Annual Lease Payment (page 33 of RFP)
- ☐ Amortization Schedule

TAB D

- ☐ Ownership Disclosure Form, Exhibit M
- ☐ Affidavit, RFP pages 36-37
- ☐ Violations pursuant to KRS 45A.485, RFP pages 38-39
- ☐ Sworn Statement regarding Campaign Finances, RFP page 40
- ☐ MBE Participation Form, Exhibit L
- ☐ Proof of Bonding
- ☐ \$5,000 Proposal Guaranty

Oral Presentations will be scheduled with the three (3) short-listed Offerors

PROPOSAL CONTENT AND FORM QUALIFICATIONS, EXPERIENCE, TECHNICAL, AND ANNUAL LEASE PAYMENTS (PG 33)

The information below required to be submitted with your response will be bound with tabs designating sections as noted below:

In addition to the Commonwealth of Kentucky Solicitation form (Exhibit A) for Phase I, the Offeror's response shall contain the following:

- Tab (A)

- Transmittal Letter

The transmittal letter shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the Offeror. This signed letter will legally bind the Offeror. It shall include:

1. A statement indicating the type of entity of the Offeror, and the ownership of such entity.
2. A statement that the Offeror is registered to do business in Kentucky or will obtain a Kentucky business license, as well as any other documents required by law and the regulations of the Commonwealth of Kentucky, prior to commencement of work.
3. A reference to all RFP addenda received from the Commonwealth (by addenda issue date), to ensure that the Respondent is aware of all such addenda in the event there are any; if none have been received by the Respondent, a statement to that effect shall be included.
4. A statement that the Offeror's proposal meets all requirements, provisions, specifications, terms and conditions set forth in the RFP, or in the alternative, an explanation of any deviations from such terms and conditions, specifications, requirements or provisions.
5. A statement that the Offeror's proposal shall remain valid for ninety (90) days after the closing date for the receipt of proposals.
6. A signed statement certifying that no personnel currently employed by, under contract with, or in any way associated with the Commonwealth have participated in any activities relating to the preparation of the Respondent's proposal.
7. A statement that acknowledges and agrees to all of the rights of the Finance and Administration Cabinet including terms and conditions, and all other rights and terms specified in this RFP.
8. A statement specifying the Offeror's contract manager, address, phone and fax number.
9. An itemization of all materials and enclosures being forwarded collectively in response to this RFP.
10. The letter shall be signed by the person with the authority to bind the Offeror, answer questions, and provide clarification concerning the proposal.

- Narrative of Design Intent

This section shall clearly and succinctly describe the Offeror's approach to this Project. Issues such as design intent, and coordination with and benefits to the Commonwealth should, at a minimum, be addressed. This section should also specifically identify the composition of Offeror's proposed design/build team, including names of individuals working on the project. Statutes dictate these individuals must be licensed/certified. This section shall also identify the 'downstream' team members—the composition of the design/build team, to include, but not be limited to: architectural firm, engineering firm, and all other contractors, subcontractors to be utilized in completing this project.

- Corporate Background and Experience

The corporate background and experience section shall include from the Offeror: details of the background of the Offeror, date established, ownership (public company, partnership, subsidiary, etc.), company resources, and details of company experience relevant to the proposed project. List, if any, current or past similar construction projects developed/constructed/managed by the company. (Note: if the proposal is submitted by an individual, the same type of information will be required.)

The Offeror must demonstrate, as a minimum, experience with the development of two similar sized office or commercial buildings within the past 10 years. This experience shall include both the design and the construction of the facility. Offeror's experience must include structures of at a minimum of 80% size of the Project structure. Each member should be able to demonstrate experience with either design, construction or financing of two similar size structures. Teams shall include references for these projects and preferably include references for projects structured similarly to this Design-build-finance-operate project.

Should the proposal be submitted by a non-builder, a corporation or business venture formed solely for the purpose of responding to this RFP, the above information shall be submitted for each individual within the said corporation, business venture or partnership.

➤ Financial

Offerors must provide evidence that the completion of its proposed project (including design and construction) will be financially viable to its organization or team. The developer must arrange their own financing. The Owner has no arrangement to obligate any State, City or Local government to provide financing

The Offeror shall provide:

1. An audited financial statement for each of the last three years must be provided for the applicable legal entity submitting a proposal. This statement should, at a minimum, list all assets and liabilities and be certified by a registered certified public accountant who is not an officer of the company or individual submitting the proposal. Offeror should also include a statement of changes of financial position of the business entity within the last three- (3) years. If the Offeror is a new entity incorporated for the purposes of operation of this project, then Offeror must provide individual income tax records and financial statements for all owners and/or general partners with more than twenty percent- (20%) interest, for each of the last three (3) years.
2. A current (unaudited) financial statement.
3. Bank references for the company shall be provided including name, address, and current telephone number of the given financial institution. This should include a signed authorization for release of financial information from each bank listed.
4. Projected design, development costs, and explained contingencies must be detailed. This section provides the opportunity for the Offeror to show the attributes of their design, diligence and competitiveness in controlling costs and their ability to plan for and overcome obstacles they may encounter.
5. A description of the proposed financing plan including, but not limited to, source of credit, terms of credit and repayment schedule. Source of credit will identify credit for construction, as well as long term financing of structures.

◆ (TAB B): Project Approach, Drawings and Documents

- All drawings to be 30" x 42"
- Provide written and graphic description of Offeror's approach to this project.
- Composition of Design/Build Team:
 - Drawings and Documents to be submitted shall be completed to a "review ready" design level. The following documents shall be submitted as a minimum for each proposed building:
 - a. Site Plan
 1. The building(s) will be shown on the Offeror's plan as generalized footprints.
 2. A Utilities Site Plan and/or a written description will be provided by Offeror, including incorporation of site utilities connections into the proposed building design plans. *(See Exhibit I General and Specific Requirements)*

- b. Floor plans of primary building(s) (see list below) at 1/8" = 1'-0" showing all rooms, walls, columns, door swings, plumbing fixtures, built-in millwork, cubicle partitions, and other features and spaces which fully describe the various building architectural features for both structures. Floor plans shall describe overall dimensions and sizes of major spaces. Economical structures are desired. Column spacing must not adversely affect shelving configurations.
 - c. Elevations of facade of building(s) at 1/8" = 1'-0". Include notation of finishes, as well as overall dimensions and height.
 - d. Building Sections of building(s) at 1/8" = 1'-0".
 - e. Other sections or plans, at the option of the Offeror, to fully describe the structural system(s).
 - f. Written, detailed narrative description of the mechanical, electrical, life safety, security and communication systems for each type building structure proposed, including differing systems or zones within a building that requires separate mechanical systems.
 - g. Written outline specifications, CSI format, describing all building systems for all divisions of the work.
 - h. Provide Critical Path Method (CPM) schedule to be used on this project.
 - i. A rendering or series of renderings that portray the character of the facility to ensure that the concept and appearance meet the intent of the RFP. It is important that this facility be sensitive and compatible with the unique atmosphere of Sower Boulevard.
- Ownership: The Department for Facilities and Support Services, for itself and such others as it deems appropriate, will have unlimited rights to all information and material developed and furnished to the Department for Facilities and Support Services. Unlimited rights are rights to use, duplicate, or, disclose, test data, drawings, and information, in whole or in part in any manner and for any purpose whatsoever without compensation to or approval from the Respondent. All text, electronic digital files, data and other products generated shall become the property of the Department for Facilities and Support Services.

THIS SECTION MUST BE FILLED OUT AND RETURNED IN A SEPARATE ENVELOPE FROM ALL OTHER MATERIALS, WITH PHASE I PROPOSAL MATERIAL, AND MARKED "ANNUAL LEASE PAYMENTS" (page 33 of RFP)".

TAB C

ANNUAL LEASE PAYMENTS

NOTE: THE RENTAL PAYABLE TO THE OFFEROR BY THE COMMONWEALTH SHALL INCLUDE MAINTENANCE, BUT EXCLUDE UTILITIES AND JANITORIAL. The annual rent will not be subject to indexation or escalation for the life of the term of the lease. The Lessor will be responsible for operations, daily and preventative maintenance of all building systems, insurance of the building and site, snow removal, lawn care, etc. The Lessee will be responsible for all utilities, janitorial services [including pest control], moveable equipment, furnishing and non-building systems equipment and insurance of the contents of the building. In this transaction, the Commonwealth will be the beneficial owner of the property and no property tax will be due on the real estate and improvements. However, the Offeror will be responsible for all other state taxes, including but not limited to income and, if applicable, sales and use tax as well as any appropriate local taxes, such as occupational and school taxes.

The Offeror agrees to accept \$ _____ per year from the Commonwealth for a term of thirty (35) years for a facility meeting the terms and conditions contained herein with the gross square footage of the Project to be 364,700 gsf (4,700 of which is white space as outlined in the RFP)

PROPOSALS SHALL BE EITHER MAILED OR DELIVERED BY December 30, 2014 at 1:00 P.M. TO:

Paul Gannoe, Department for Facilities and Support Services
Finance and Administration Cabinet
Second Floor – Bush Building
403 Wapping Street
Frankfort, Kentucky 40601

II. SCORING AND PROJECT AWARD

The selection committee will evaluate all of the proposals to determine which proposals meet the minimum qualifications on a pass/ fail basis using the "Selection Committee Evaluation" criteria attached to this RFP, (see Exhibit O).

Each committee member will independently evaluate each component of the technical proposals on a pass/fail basis.

Once this individual evaluation is complete, the Committee will discuss each component to determine if the technical response to each component meets the criteria as defined in the RFP.

The committee decision will be based on majority scoring.

Each proposal that has majority committee approval for each component piece will then be evaluated for Lease Payment.

At this point, each approved proposal is evaluated by the Finance and Administration Cabinet and the Office of Financial Management for Lease Payment based on a formula as set out below:

The Lease Payment (price) will be scored as follows – **FOR EXAMPLE ONLY:**

Proposal with lowest annual Lease Payment
 $\$4,000,000 = 500 \text{ pts}$

Next lowest annual Lease Payment of \$4,200,000
 $\$4,200,000 = 500 \times (4,000,000/4,200,000) = 476.2 \text{ pts}$

Next lowest annual Lease Payment of \$4,400,000
 $\$4,400,000 = 500 \text{ pts} \times 4,000,000/4,400,000 = 454.5 \text{ pts}$

- The Commonwealth reserves the right to ask any Offeror for clarification, and/or additional information, as may be required to carry out the evaluation process.
- Oral Presentations will be required only of the top three (3) Offerors. Expenses incurred by the offeror for Oral Presentations will be the sole responsibility of the three (3) short-listed Offerors. Date and time of Oral Presentations will be determined by the Procurement Officer. Oral Presentations will be a maximum of one-half hour (1/2) hour in length, with an additional thirty minutes for questions from the Committee.

SCORING METHODOLOGY

Total points available for this RFP: 1,000 points

First phase points available 950 points (450 for technical 500 for Lease Payment)

During Oral Presentations, a total of 50 points is available

Technical proposals will be worth 450 points and will be scored on a pass or fail basis

Firms "passing" on all reviewed items will receive 450 points, firms "failing" on one or more of the reviewed items will not be considered for further review.

The points from the Selection Committee "pass/fail" review will be added to the points awarded to each firm from the evaluation of Lease Payment.

The total score (up to 950 points) will be used to determine the firms who will participate in Oral Presentations (the three highest scored firms at the end of the first phase).

The top three proposals then move on to the Oral Presentations. The Committee will evaluate the top three proposals during Oral Presentations to understand the value added amenities offered by each offeror.

Each firm can be awarded up to 50 points for their Value Added, that is amenities they provide over and above the minimum qualifications. A list of some of the things that could be included as "value added" is contained in Exhibit P

The cost of all "value added" items offered shall be included in the Lease Payment. The points awarded during the Oral Presentations will be added to the scores from the technical and Lease Payment scores to determine the successful firm (the Highest scored firm from both phases).

Each committee member will independently score the Value-Adds from the offeror. The scores will be totaled and divided by the number of members to produce a final score of the committee.

**IMPORTANT - THIS SECTION MUST BE READ, SIGNED,
NOTARIZED, AND RETURNED WITH THE PHASE I SUBMISSION:**

Solicitation: RFP#120214

REQUIRED AFFIDAVIT FOR OFFERORS, OFFERORS AND CONTRACTORS

PAGE 1 OF 2

FOR BIDS AND CONTRACTS IN GENERAL:

- I. Each Offeror or Offeror swears and affirms under penalty of perjury, that:
 - a. In accordance with KRS 45A.110 and KRS 45A.115, neither the Offeror or Offeror as defined in KRS 45A.070 (6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the Offeror or Offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
 - b. The Offeror or Offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
 - c. The Offeror or Offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.
 - d. The Offeror or Offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):

- II. Each contractor further swears and affirms under penalty of perjury, that:

- a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.
- b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

Solicitation/Contract: RFP#120214

REQUIRED AFFIDAVIT FOR OFFERORS, OFFERORS AND CONTRACTORS

PAGE 2 OF 2

- c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the Offeror, Offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

Signature

Printed Name

Title

Date

Company Name

Address

Subscribed and sworn to before me by

(Affiant)

(Title)

of _____ this ____ day of _____, 20____.
(Company Name)

Notary Public

[seal of notary]

My commission expires: _____

**IMPORTANT - THIS SECTION MUST BE READ, FILLED OUT,
AND RETURNED WITH THE PHASE I SUBMISSION:**

**VENDOR REPORT OF PRIOR VIOLATIONS
ON CONSTRUCTION SEALED BIDS
RFP#120214**

This form is applicable to all sealed bids for construction projects issued by the Finance and Administration Cabinet, Department for Facilities and Support Services in accordance with KRS 45A.080.

The **Prime Bidder** on any construction sealed bid **shall** complete and provide a signed and notarized form with the required information attached, for the Prime Bidder, as **an attachment to the bid**.

All subcontractors for the best evaluated Prime Bidder shall also provide a signed and notarized form with the required information attached through the Prime Bidder to DECA within five (5) calendar days of the bid opening date. **The Prime Bidder shall provide copies of this form to the subcontractors for their execution.**

The information required is specifically - **any final determination(s) of violations within the last five (5) calendar years of the following:**

1. Violations of KRS Chapter 136 (Corporation and Utility Taxes);
2. Violations of KRS Chapter 139 (Sales and Use Taxes);
3. Violations of KRS Chapter 141 (Income Taxes);
4. Violations of KRS Chapter 337 (Wages and Hours);
5. Violations of KRS Chapter 338 (Occupational Safety and Health of Employees);
6. Violations of KRS Chapter 341 (Unemployment Insurance);
7. Violations of KRS Chapter 342 (Workers Compensation); and
8. Violations of Occupational Safety and Health Laws **in any other states and at the federal level.**

If there are no violations for a particular category, vendor should attach a statement to that effect.

If there are violations for a particular category, the vendor should list them and provide the following information for each: the date of the violation, a short description of the violation (including statutory citation), the name of the governmental enforcement agency involved, and the amount of any penalties imposed as a result of the final determination.

Please note that this information may be provided to other governmental agencies, such as the Kentucky Labor Cabinet, as part of the bid process. DECA reserves the unqualified right to disqualify any vendors from participating further in this bid process if appropriate under law.

In addition, the successful prime bidder and subcontractors shall remain in continuous compliance with KRS 45A.485 during the life of any contract awarded, and shall notify DECA of any new final determinations of violations in **any** of the above-mentioned categories, which occur after contract award, and during the life of any contract awarded. Failure to comply with these requirements may result in the bidder and subcontractors being disqualified from participating in future bid opportunities for the Commonwealth.

THIS VENDOR VIOLATION FORM IS BEING SENT TO THE LABOR CABINET FOR VERIFICATION. PLEASE MAKE SURE ALL YOUR VIOLATIONS ARE LISTED WITHIN THE LAST FIVE (5) YEARS. IF AN OFFEROR LISTS "NONE" AND HAS VIOLATIONS, THEIR PROPOSAL MAY BE REJECTED. FOR A LIST OF YOUR VENDOR VIOLATIONS, YOU CAN FAX OR EMAIL THE LABOR CABINET WITH YOUR REQUEST. FAX NUMBER IS (502) 696-1984 OR EMAIL: labor.desam@ky.gov.

COMPANY NAME: _____

TAX PAYER #: _____

Violation Category	Date	Description	Govt. Enforcement Agency	Amount of Penalties

NOTARIZED STATEMENT OF COMPLIANCE

I certify, under penalty of perjury, that I have provided all pertinent information required by this form and this information is true and accurate. I also certify that I have completely read and understand this form and will comply with these requirements during the life of any contract awarded.

SIGNATURE

Printed Name

Title

Date

Company Name _____

Address _____

Subscribed and sworn to before me by _____,
(Affiant) (Title)

of _____ this _____ day of, 20 _____.
(Company Name)

Notary Public
[seal of notary]

My commission expires: _____

**IMPORTANT - THIS SECTION MUST BE READ, SIGNED,
NOTARIZED, AND RETURNED WITH THE PHASE I SUBMISSION:**

**SWORN STATEMENT REGARDING CAMPAIGN FINANCE LAWS
PURSUANT TO KRS 45A.110 AND KRS 45A.115**

All persons having ownership in the offered property shall provide a sworn statement regarding campaign finance laws pursuant to KRS 45A.110 and KRS 45A.115. If the property owner is a corporation or business trust, a duly designated and authorized agent shall complete this required statement. (Please use extra sheets if necessary.)

The undersigned hereby swears or affirms, under the penalty prescribed by law for perjury, that neither he/she, individually, nor, to the best of his/her knowledge and belief, the corporation, partnership, or other business entity which he/she represents, has knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky, and that the award of a contract to him/her, individually, or to the corporation, partnership or other business entity which he/she represents, will not violate any campaign finance laws of the Commonwealth.

OFFEROR/OFFEROR:

OFFEROR/OFFEROR:

(Signature)

(Signature)

(Title, if applicable)

(Title, if applicable)

(Name of Company, if applicable)

(Name of Company, if applicable)

OFFEROR/OFFEROR:

OFFEROR/OFFEROR:

(Signature)

(Signature)

(Title, if applicable)

(Title, if applicable)

(Name of Company, if applicable)

(Name of Company, if applicable)

State of _____)

) SS

County of _____)

The foregoing statement was sworn to me this _____ day
of _____, 20____, by _____.

Notary Public

My Commission expires: _____.

EXHIBITS

EXHIBIT A	Phase I Commonwealth of Kentucky Solicitation Form
EXHIBIT B	Wage Rates for <i>informational purposes only</i> --not an "official" document. Offeror is solely responsible for contacting the Labor Cabinet for official wage rates.
EXHIBIT C	HMB, Joe Grider, Project Site Plan (approximately 33.988 acres); Survey w/Topographical information
EXHIBIT D	Draft Deed between COK (Grantor) and successful Offeror (Grantee)
EXHIBIT E	Temporary Construction Easement and Ingress/Egress Easement (Grantor: Commonwealth of Kentucky; Grantee: successful Offeror)
EXHIBIT F	DHBC Guidance on Partial Permits
EXHIBIT G	No Exhibit G included with this RFP
EXHIBIT H	Traffic Study
EXHIBIT I	General and Specific Project Requirements/Specs
EXHIBIT J	Draft Lease Agreement; Commonwealth of Kentucky, as Lessee; successful Offeror, as Lessor
EXHIBIT K	Deed of Conveyance between City of Frankfort (Grantor) and COK (Grantee) – Sower Boulevard property
EXHIBIT L	Minority Business Enterprise Participation Form
EXHIBIT M	Ownership Disclosure Form
EXHIBIT N	Preliminary Geotechnical Subsurface Report, prepared by S&ME Engineers
EXHIBIT O	Selection Committee Evaluation Criteria
EXHIBIT P	Preferred Value Added Items

END OF RFP#120214